

U.S. DISTRICT COURT
For the
EASTERN DISTRICT OF MASSACHUSETTS

JULY 11, 2004 P 3 37

DOCKET NO:

04 - 12451 JLT

ROUBEN MADIKIANS,
Plaintiff,
v.
AMERICAN AIRLINES ASSOCIATION
OF PROFESSIONAL FLIGHT
ATTENDANTS ("APFA"),
Defendant,
AMERICAN AIRLINES, CO. ("AA")
Defendant,
JULIA CARRIGAN,
Personally and in her capacity as
Boston Domestic Chair of APFA
Defendant,
KELLY COX,
Personally and in her capacity as
AA Boston Based Manager,
Defendant; and
AMY MILENKOVIC,
Personally and in her capacity as
APFA Representative,
Defendant.

COMPLAINT

AND

DEMAND FOR JURY TRIAL

RECEIPT # _____
AMOUNT \$ 150.00
SUMMONS ISSUED 5
LOCAL RULE 4.1 _____
WAIVER FORM _____
MCF ISSUED _____
BY DPTY. CLK. M.P
DATE 11/19/04

MAGISTRATE JUDGE M.B.B

INTRODUCTION

1. The plaintiff, Mr. Rouben Madikians, seeks damages from the defendants for retaliation and hostile work environment and defamation, in connection with exercising a legal activity in his capacity as a Union Member and employee of American Airlines.

PARTIES

2. Plaintiff Mr. Rouben Madikians (hereinafter "Madikians"), is a resident of Massachusetts, residing at 15 St. George Street, Apt. 3, Boston, Massachusetts 02118, and was and is an employee of American Airlines Co., and a member in good standing of the Association of Professional Flights Attendants.
3. Defendant Association of Professional Flight Attendants (hereinafter "APFA"), is an organized collective bargaining association, and operates, in relevance herein, at 20 Chestnut Street, Charlestown, Massachusetts 02129.
4. Defendant American Airlines Co. (hereinafter "AA"), is a corporation having a place of business in Massachusetts at Logan International Airport, Terminal B, East Boston, Massachusetts 02128.
5. Defendant Julia Carrigan (hereinafter "Carrigan"), is a resident of Massachusetts and is and was at all relevant times the Boston Domestic Chairperson of the APFA, and has a business address at 20 Chestnut Street, Charlestown, Massachusetts 02129.
6. Defendant Kelly Cox (hereinafter "Cox"), is a resident of Massachusetts and was at all relevant times the Boston Based Manager of AA, and has a mailing address at Logan International Airport, Terminal B, East Boston, Massachusetts 02128.
7. Defendant Amy Milenkovic (hereinafter "Milenkovic"), is a resident of Massachusetts and is and was at all relevant times the APFA Representative at the Boston Base of APFA, and has a mailing address at 20 Chestnut Street, Charlestown, Massachusetts 02129.

FACTS

8. Madikians was employed by AA, and was a member of the APFA at all relevant times.
9. On or about December 23, 2003, Madikians informed Carrigan and Cox of his initiation of a petition demanding her removal in her capacity as APFA Boston Domestic Chair.

10. On or about December 30, 2003, Madikians traveled to Dallas, Texas to inspect records and discover events related to Carrigan in her capacity; those records are open and available to all members in good standing of the APFA.
11. On or about January 30, 2004, Madikians commenced to solicit signatures from APFA members in good standing. He released portions of the records obtained relating to dates and times of travel of defendant Carrigan while purportedly on Union business when in fact, she was attending personal events benefiting neither the Union nor AA.
12. On or about February 1, 2004, Madikians became aware that Carrigan and Milenkovic initiated a "smear" campaign against him, and were maliciously and falsely stating that Madikians had been stalking Carrigan's family and minor son, which is especially outrageous and damaging to Madikians' reputation because he is known by the defendant to be gay, and that such claims as stocking constitute a crime.
13. On or about February 4, 2004, Carrigan with the approval of AA and Cox, published to all APFA members and caused to be displayed in obvious areas or the work place a "Winter 2004 Base Brief" newsletter in which Carrigan stated that Madikians had been stalking her family and minor son, both of which is false.
14. On or about January 23, 2004, Carrigan filed a police report with the Boston Police stating that on January 20, 2004 she was telephoned by Madikians requesting her whereabouts on certain days when she was acting as Boston Domestic Chair, and although "Victim states that she does not really feel threatened by subject," she "wants to file to report to begin reporting suspect's action in case she feels more threatened."
15. On or about February 16, 2004, Madikians demanded that AA conduct an investigation into the events, informing AA that he was being subjected to a hostile work environment in retaliation.
16. On or about February 25, 2004, Madikians filed formal charges with APFA demanding an investigation of Carrigan as an officer and agent of APFA.
17. On or about the first week of March 2004, in an open meeting related to Union business, Carrigan stated to the audience that Madikians was stalking her child.

18. On or about March 21, 2004, Madikians filed a further grievance and request for hearing to APFA.
19. On or about July 21, 2004, AA completed an investigation only upon several requests by Madikians. AA took no known action and declined to deliver to Madikians its findings and/or recommendations.
20. On or about June 2004, APFA informed Madikians that it would not accept his grievance, and no investigation was performed.
21. On or about February 25, 2004, Madikians filed a disability claim for suffered emotional distress which manifested itself emotionally and physically. He was unable to return to work because of the hostile work environment and the damage to his reputation.
22. On or about February 27, 2004, Madikians filed a Charge of Discrimination with the Massachusetts Commission Against Discrimination alleging retaliation, slander, Amended on or about May 21, 2004 to include discrimination based on sexual orientation and use of the term "stalking."
23. On or about July 21, 2004, Madikians was informed that the investigation was completed and closed. No known action was taken.
24. On or about August 23, 2004, the Massachusetts Commission Against Discrimination dismissed the Charge of Discrimination based on lack of jurisdiction, thereby granting under M.G.L. c. 151B, s. 9, jurisdiction to this court on those claims.
25. Madikians continues to suffer both emotionally and physically; he suffers from reduced earnings, professional standing and reputation.

COUNTS

**COUNT ONE
RETALIATION**

26. The plaintiff repeats, restates, and incorporates the allegation contained in paragraphs one through 24 as though specifically re-written and set forth herein.
25. Plaintiff disclosed public documents to interested parties, those documents believed by the plaintiff to indicate wrongdoings on the part of defendant Carrigan.
26. Defendant Carrigan retaliated by publishing untrue documents, slandering, and intentionally causing emotional distress to the plaintiff, causing a hostile environment.
27. Defendant AA knew or should of known of the hostile environment, and permitted the hostile environment to exist and continue.
28. Defendant APFA knew or should of known of the hostile environment, and permitted the hostile environment to exist and continue.

WHEREFORE Plaintiff demands judgment against the defendants on Count One in an amount to be determined at trial including interest, costs, reasonable attorneys' fees and any and all relief deemed fair and proper.

**COUNT TWO
DEFAMATION**

29. The plaintiff repeats, restates, and incorporates the allegation contained in paragraphs one through 28 as though specifically re-written and set forth herein.
30. Defendant Carrigan did publish a defamation concerning the plaintiff to the public, and that the defamation was false, or alternatively, if true then it was done with malice.
31. Defendant APFA, as respondeat superior to defendant Carrigan, is liable for the actions of its agent Carrigan.
32. Defendant Cox did permit and approve that publication for dissemination to the public, and knew that it was false, or alternatively, if it was true then it was done with malice.

33. Defendant AA, as respondeat superior to defendant Cox, is liable for the actions of its employee defendant Cox.

34. Plaintiff was damaged in his profession, held by his fellows in contempt, scorn and/or ridicule, and his standing was impaired.

WHEREFORE Plaintiff demands judgment against the defendants on Count Two in an amount to be determined at trial including interest, costs, reasonable attorneys' fees and any and all relief deemed fair and proper.

**COUNT THREE
INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS**

35. The plaintiff repeats, restates, and incorporates the allegation contained in paragraphs one through 34 as though specifically re-written and set forth herein.

36. Defendant Carrigan did intentionally cause the plaintiff emotional distress by harassing him, publishing malicious untruths, or if true, publishing with malice, and slandering him to the public.

37. Defendant APFA, as respondeat superior to defendant Carrigan, is liable for the actions of its agent Carrigan, and it had actual knowledge of the distress caused by defendant Carrigan.

38. Defendant Cox did permit and approve that publication for dissemination to the public, and knew that it was false, or alternatively, if it was true then it was done with malice.

39. Defendant AA, as respondeat superior to defendant Cox, is liable for the actions of its employee defendant Cox.

40. Plaintiff was damaged in his profession, held by his fellows in contempt, scorn and/or ridicule, and his standing was impaired.

WHEREFORE Plaintiff demands judgment against the defendants on Count Three in an amount to be determined at trial including interest, costs, reasonable attorneys' fees and any and all relief deemed fair and proper.

**COUNT FOUR
FAILURE OF FAIR REPRESENTATION**

41. The plaintiff repeats, restates, and incorporates the allegation contained in paragraphs one through 40 as though specifically re-written and set forth herein.

42. Plaintiff filed a grievance with defendant APFA, wherein he demanded an investigation into the actions of defendants Carrigan and Milenkovic.

43. Defendant APFA failed to take any action, and failed to represent plaintiff.

44. Defendant APFA actions were arbitrary, capricious and discriminatory, the in breach of the duty of fair representation.

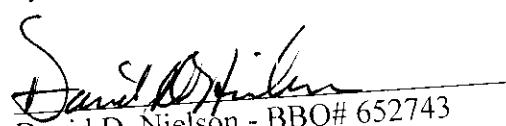
WHEREFORE Plaintiff in demands judgment against the defendants on Count Four in an amount to be determined at trial including interest, costs, reasonable attorneys' fees, excess damages, and any and all relief deemed fair and proper.

DEMAND FOR JURY TRIAL

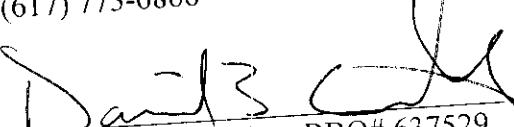
Plaintiff respectfully demands a jury trial for all counts triable.

Respectfully Submitted,
Rouben Madikians,
By his attorneys,

Dated: 11/18/2004


David D. Nielson - BBO# 652743
Law Office of David D. Nielson
15 Cottage Avenue, Ste. 301
Quincy, MA 02169
(617) 773-6866

Dated: 11/18/04


Daniel J. Ciccarello - BBO# 637529
Law Office of Daniel J. Ciccarello
15 Cottage Avenue, Ste. 301
Quincy, MA 02169
(617) 770-9901

The JS-44 civil cover sheet and the information contained herein are neither filed nor served with the complaint or summons or other papers as required by law, except as provided by local rule of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THIS FORM.)

I. (a) PLAINTIFFS Rouben Madikians

DEFENDANTS Am. Airlines Assoc. of Prof. Flight Attendants, Am. Airlines, et. al.

Suffolk

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Suffolk

County of Residence of First Listed

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

(c) Attorney's (Firm Name, Address, and Telephone Number)

David D. Nielson, 15 Cottage Ave, #301, Quincy, MA 02160 (617) 773-6866; Daniel J. Ciccarello, 15 Cottage Ave, #301, Quincy, MA 02160 (617) 770-9901

Attorneys (If Known)

Unknown

12451 JLT

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 630 Liquor Laws		<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 640 R.R. & Truck		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 650 Airline Regs.		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health		<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 690 Other		<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 892 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DJWC/DIW (405(g))	<input type="checkbox"/> 900 Appeal of Fee Determination
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> Under Equal Access to Justice
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 890 Other Statutory Actions
		<input type="checkbox"/> 555 Prison Condition		
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS— Third Party 26 USC 7609	

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Union Official retaliation; defamation, intentional infliction of emotional distress and failure of fair representation in relation to plaintiff-employee union member practicing a protected activity, to wit, a petition to remove elected union official.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) (See instructions:
IF ANY)

JUDGE

DOCKET NUMBER

DATE

11/18/2004

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Rouben Madikians v. American Airlines Association of

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Professional Flight Attendants

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

04-12451 JLT

I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

✓ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. * Also complete AO 120 or AO 121 for patent, trademark or copyright cases

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 670, 690, 810, 861-865, 870, 871, 875, 900.

V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E)).

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT? YES NO

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC 2403) YES NO

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY? YES NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC 2284? YES NO

7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL DIVISION OF THE DISTRICT OF MASSACHUSETTS (WORCESTER COUNTY) - (SEE LOCAL RULE 40.1(C)). YES NO

OR IN THE WESTERN DIVISION (BERKSHIRE, FRANKLIN, HAMDEN OR HAMPSHIRE COUNTIES)? (SEE LOCAL RULE 40.1(D)). YES NO

8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN DIVISIONS OF THE DISTRICT? YES NO

(a) IF YES, IN WHICH DIVISION DOES THE PLAINTIFF RESIDE?

9. IN WHICH DIVISION DO THE ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE?

10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE CENTRAL DIVISION; YES NO OR WESTERN DIVISION; YES NO

11. ALTERNATIVE DISPUTE RESOLUTION - IS THIS CASE SUITABLE FOR ADR? IF SO, BY WHICH ADR?

EARLY NEUTRAL EVALUATION MEDIATION SUMMARY JURY/BENCH TRIAL
MINI-TRIAL OTHER

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME David D. Nielson, Esq.

ADDRESS 15 Cottage Ave, Suite 301 Quincy, MA 02169

TELEPHONE NO. (617) 773-6866

(Category Form.wpd - 3/28/2000)